IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 232 of 2005
With
CRIMINAL REVISION APPLICATION No. 233 of 2005
With
CRIMINAL REVISION APPLICATION No. 234 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRATAPBHAI RANABHAI PADSALA - Applicant(s)
Versus
GOVINDBHAI GOBARBHAI DHAHANI PROPRIETOR & 1 - Respondent(s)

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Appearance :
MR VC VAGHELA for Applicant(s) : 1,
MR UI VYAS for Respondent(s) : 1,
MR PRACHCHHAK, APP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 15/09/2005

ORAL JUDGMENT

1) By instant batch of three petitions under Section

397 read with Section 401 of the Code of Criminal Procedure ('the Code' for short), the petitioner-original complainant seeks to challenge the separate judgement and orders dated 28th February, 2005 rendered in Criminal Revision Application Nos.96, 97 and 98 of 2004 by the learned Sessions Judge, Amreli. By aforesaid separate orders, revision application filed by the respondent-accused came to be allowed and thereby separate orders dated 18-10-2004 passed below Exh.7 in Criminal Case No.242/2004, below Exh.8 in Criminal Case No.251/2004 and below Exh.8 in Criminal Case No.253/2004 rejecting the applications filed by the respondent No.1 for sending the cheques in question to hand-writing expert, has been quashed and set aside and accordingly, the cheques in question were directed to be sent to hand-writing expert for verification of signature of the respondent No.1.

2) Having heard the Mr.Waghela, learned advocate for the petitioner, Mr.U.I.Vyas, learned advocate for the respondent No.1 and Mr.Prachchhak, learned APP for respondent No.2 and on perusal of the impugned order passed by the learned Sessions Judge, Amreli, by which application filed by the respondent No.1 for sending cheques in question to hand-writing expert for verification of his signature has been granted, according

to this Court no illegality or infirmity has been committed by the learned Sessions Judge, Amreli in passing the impugned order when the respondent No.1 has denied to have signed on the said three cheques. Besides this, according to this Court, no prejudice is going to cause to the petitioner-original complainant by the impugned order. It is a settled principle of law of evidence that when the person has denied his signature, the Court has to come to the conclusion whether signature is forged one or not and it is not in dispute that in the instant case, the respondent No.1 himself has filed an application for sending three cheques to hand-writing expert for verification of his signature. According to this Court, since no prejudice is going to cause to the petitioner-complainant no interference of this Court is called for in the impugned order in exercise of powers conferred under Section 397 of the Code.

3) Seen in the above context, all the petitions lack merit and deserves to be rejected.

4) For the foregoing reasons all these three petitions fail and accordingly they are rejected. Rule issued in each petition is discharged. Interim relief granted at the time of issuance of rule shall stand vacated.

5) The Judicial Magistrate, First Class, Amreli, is directed to comply with the direction issued by the learned Sessions Judge, Amreli in terms of paragraph 4 of his judgement and order dated 28-2-2005 by disposing of the said three complaints.

6) Direct service is permitted.

(A.M. Kapadia, J.)

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